



**DEPARTMENT OF PERSONNEL**

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**MEMO PERD #04/00**

**February 18, 2000**

**PERSONNEL COMMISSION MEETING**

**Minutes of December 16, 1999**

**Las Vegas, Nevada**

**I. CALL TO ORDER**

The meeting was called to order by Chairman Manos at 9:05 am, December 16, 1999, at the Grant Sawyer Building, Las Vegas. Members present: Chairman Ted Manos, and Commissioners Claudette Enus, Teo Gamboa, James Skaggs, and Victoria Riley. Also present were: Jeanne Greene and Carol Thomas from the Department of Personnel and Jim Spencer representing the Attorney General's office.

**II. \*ADOPTION OF AGENDA**

Chairman Manos indicated that appeals A and D of Item VIII had been resolved and would not be heard; appeal E would be heard after appeal B. Commissioner Jim Skaggs' motion to adopt the agenda was seconded by Commissioner Enus and unanimously carried.

**III. \*MINUTES OF PREVIOUS MEETING**

The minutes of the September 10, 1999, Personnel Commission meeting were approved by acclamation.

**IV. \*AMENDMENT TO THE PAY PLAN FOR CLASSIFIED EMPLOYEES**

***Elimination of Half Steps***

It was recommended the compensation schedules for classified employees be revised from 15 half steps to 8 steps effective January 1, 2000. Pursuant to NRS 284.175(2), the pay plan and its amendments become effective only after approval by the Personnel Commission and the Governor. The change was recommended by the Governor to streamline the compensation schedules and eliminate confusion created by the half-steps.

Employees who are at steps 3, 5, 7, 9, 11, 13, and 15 will be adjusted laterally to a corresponding step on the new schedule. Employees who are at even-numbered steps (i.e., 2, 4, 6, 8, 10, 12, or 14) will have their compensation adjusted upward to a corresponding step on the new schedule. Robert Gagnier, Executive Director, State of Nevada Employees Association (SNEA), said they supported the elimination of half steps.

Commissioner Skaggs' motion to approve the elimination of half steps was seconded by Commissioner Enus and unanimously carried.

**V. \*REGULATION CHANGES**

***Sec. 1 NEW SECTION "Insurer" defined***

Commissioner Enus' motion to adopt the definition was seconded by Commissioner Skaggs and unanimously carried.

***Sec. 2 284.010 Definitions***

This amendment was necessitated by the change in Section 1. Commissioner Riley's motion to adopt the amendment was seconded by Commissioner Skaggs and unanimously carried.

***Sec. 3 284.102 "Step" defined***

Commissioner Riley's motion to remove reference to half steps was seconded by Commissioner Skaggs and unanimously carried.

***Sec. 4 284.170 Initial rate of salary; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee***

This amendment was necessitated by the removal of half steps. Commissioner Enus' motion to adopt the amendment was seconded by Commissioner Riley and unanimously carried.

***Sec. 5 284.204 Adjustment of steps within the same pay grade***

This amendment resulted from decisions by the Employee Management Committee and provided for a retroactive adjustment due to administrative or clerical error. Commissioner Enus' motion to approve the amendment was seconded by Commissioner Skaggs and unanimously carried.

***Sec. 6 284.206 Special adjustment to salaries***

This amendment clarifies that retroactive adjustments may not exceed 6 months from the date of receipt of documents by the Department of Personnel. Commissioner Riley's motion to approve the amendment was seconded by Commissioner Gamboa and unanimously carried.

***Sec. 7 284.470 Preparation and discussion of reports***

This amendment clarifies the time allowed for an employee to respond if he disagrees with his report on performance and provides for the use of the grievance procedure after exhausting internal procedures for review. Commissioner Gamboa's motion to approve the amendment was seconded by Commissioner Skaggs and carried unanimously.

***Sec. 8 284.478 Appeal of contested performance evaluations***

This amendment provides that a permanent employee may grieve a contested performance evaluation only after requesting a review by the reviewing officer. Commissioner Enus' motion to approve the amendment was seconded by Commissioner Riley and unanimously carried.

***Sec. 9 284.498 Training of supervisory employee***

This amendment corrected a subsection reference which changed due to a previous amendment to this regulation. Commissioner Skaggs' motion to approve the amendment was seconded by Commissioner Riley and unanimously carried.

***Sec. 10 284.6013 Determination of date on which employee sustained permanent disability related to work***

This amendment eliminated references to the State Industrial Insurance System and replaced those references with the word *insurer* as defined by NRS 616A.270. Commissioner Riley's motion to approve the amendment was seconded by Commissioner Skaggs and unanimously carried.

***Sec. 11 284.6014 Eligibility of employee with permanent disability for reemployment***

This amendment eliminated references to the State Industrial Insurance System and clarifies the role of the *insurer* in notifying the Department of Administration, Division of Risk Management, of the employee's eligibility for reemployment. Commissioner Enus' motion to approve the amendment was seconded by Commissioner Riley and unanimously carried.

***Sec. 12 284.6015 Risk Management division of the department of administration to provide certain information regarding permanent disability of employee to department of personnel and appointing authority***

This amendment eliminated references to the State Industrial Insurance System and clarifies the role of the Department of Administration, Division of Risk Management. Commissioner Skaggs' motion to approve the amendment was seconded by Commissioner Gamboa and unanimously carried.

***Sec. 13 284.611 Separation for physical, mental or emotional disorder***

This amendment eliminated references to the State Industrial Insurance System. Commissioner Riley's motion to approve the amendment was seconded by Commissioner Enus and unanimously carried.

***Sec. 14 284.678 Statement of grievance; time to file; contents***

This amendment defines the number of days allowed for an employee to file a grievance after receipt of a decision by the reviewing officer and the level at which the grievance should be submitted. Commissioner Skaggs' motion to approve the amendment was seconded by Commissioner Gamboa and unanimously carried.

**VI. \*CLASSES SUBJECT TO PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES**

***Forestry Division, Department of Conservation and Natural Resources***

At the request of the Division of Forestry, Department of Conservation and Natural Resources, the Department of Personnel created a new class of Aircraft Maintenance Specialist. The Department of Conservation and Natural Resources requested this class be approved by the Commission for pre-employment drug testing. Commissioner Skaggs' motion to approve the class for pre-employment drug testing was seconded by Commissioner Enus and unanimously carried.

**VII. \*CLASSIFICATION - OBJECTION TO PUBLIC POSTING**

***Economist Class Specification***

Dan Culbert, Economist III, Department of Employment, Training and Rehabilitation, objected to the recommended grade 41 for Economist IV because he felt there should be a two-grade distinction between that class and the Chief Economist, grade 42. Mr. Culbert did not appear before the Personnel Commission. There being no other objections, Commissioner Gamboa's motion to approve the revised class specification was seconded by Commissioner Skaggs and unanimously carried.

**VIII. \*CLASSIFICATION APPEALS**

**A. Tina Perry, Medicaid Services Supervisor I**

*Health Care Financing & Policy Division, Department of Human Resources*

Ms. Perry stated she was a registered nurse and explained the Medicaid program was composed of several programs of varying complexity, expending several hundred million dollars per year. She was directly responsible for planning, formulating and implementing policies; determining program benefits and coverage based on the interpretation of State and federal laws, case law, and regulations; analyzing cost data and negotiating and establishing rates for products and services within the Medicaid program; gathering and analyzing respective data for the calculation of fiscal and operational impact fees and identifying other community or financial resources; and ensuring changes to the State plan, policy and procedure manuals, interlocal/cooperative agreements, and contracts. Additionally, Ms. Perry said her position was frequently placed in situations where she must act quickly and independently. The decisions made had great consequence of error and an improper decision on her part regarding medical necessity could lead to physical harm or even death.

In reviewing the class specifications for the Social Welfare Program Specialist III, grade 37, Ms. Perry believed she performed the specified duties. Ms. Perry explained the Department of Personnel initially reclassified her position as a Social Welfare Program Specialist III; however, they changed their decision based upon information obtained from administrators at the Division of Health Care Financing and Policy. Her position was eventually reclassified to Medicaid Services Supervisor I, grade 35.

Ms. Peggy Epidendio, retired Chief of Medical Review Services, spoke on Ms. Perry's behalf regarding the program complexities and the required knowledge, skills, and abilities.

Chairman Manos raised the issue of the initial determination by the Department of Personnel which was made on April 29, 1999. The agency didn't appeal the determination until July 7, 1999. Chairman Manos asked Jim Spencer for clarification of NAC 284.152 and the 30 days in which incumbents/agencies have to respond to determinations. Discussion continued regarding what would happen if the 30-day condition was not met.

Jeanne Greene, Director of the Department of Personnel, indicated the NPD-19 was signed on March 2, 1999. On April 2, 1999, within the allotted 30 days, the agency had appealed the decision. She explained from April through July there had been communications with the agency that went back and forth in order to clarify information. It was the feeling of the Department of Personnel that the condition of the 30-day period had been met.

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Chairman Manos expressed his concerns regarding access to the Commission due to failure to respond in a timely fashion; however, he was satisfied there had been compliance with the rule. Chairman Manos felt that NAC 284.152 should be amended to clarify the penalties the Department of Personnel, incumbents or agencies would incur if the 30-day period was not met.

Peter Long, Personnel Analyst, Department of Personnel, stated he had conducted the study on reclassifying Ms. Perry from Medicaid Services Specialist II, grade 33, to Medicaid Services Supervisor I, grade 35. He indicated Ms. Perry desired to further upgrade her position to Social Welfare Program Specialist III, grade 37, based on program scope, magnitude, complexity and consequence of error of her position.

Chairman Manos asked for an explanation as to why the Department of Personnel changed their original determination. Mr. Long indicated that many of Ms. Perry's duties could be applied to both class specifications as they related to supervision and training. Mr. Long subsequently determined the duties were not as complex as those of the Social Welfare Program Specialist III and were only performed 30 percent of the time. The other 70 percent of Ms. Perry's time was spent supervising and training staff. There was additional discussion involving Ms. Perry's duties and responsibilities.

Wally Voskuil, Supervisory Personnel Analyst, Department of Personnel, explained that a subject matter expert was used to differentiate the complexities of the Medicaid programs. Positions at the grade 37 level were typically assigned more responsible, complex administrative assignments and had more latitude in decision-making; administered multiple, large programs affecting significant numbers of people; and applied specialized knowledge while functioning from broad non-specific rules and regulations.

Betty Leyrer, Social Welfare Program Chief, Nevada Medicaid Office, Health Care Financing & Policy Division, stated that Ms. Perry's programs were not at the level of a Social Welfare Program Specialist III, and she did not have the dollar impact or the level of responsibility expected from those specialists. While Ms. Perry did maintain programs that were far-reaching and affected a great deal of people, some of those programs were somewhat routine in their daily administration, and in fact, performed at the district office level sometimes by clerical staff.

Robert Gagnier, Executive Director, State of Nevada Employees Association, indicated he was concerned the Commissioners would base their decision on quantity versus the other factors.

Kareen Masters, Personnel Officer, Department of Human Resources, explained the class differentiation was not based on program dollar amount or number of recipients, but on the complexity and scope of the decision-making. A Social Welfare Specialist III in the

Medicaid office would be responsible for developing the managed care organization for recipients. Whereas Medicaid Program Specialists serve as program coordinators and are involved in their program policy and development; however, their involvement had a much narrower focus.

Chairman Manos asked for further discussion from the Commission and, upon hearing none, requested a motion. Commissioner Enus' motion to deny the appeal was seconded by Commissioner Skaggs and unanimously carried.

Ms. Greene commented the Department of Personnel made the reclassification of the position retroactive to July of 1998.

Chairman Manos readdressed the issue of NAC 284.152 and asked the Department of Personnel to examine the regulation and provide a report on whether or not it would be appropriate to clarify parameters which would shut off the appeal process on the part of the agency, department, or appellant.

**B. Fred Washington, Compliance/Audit Investigator II**  
*Consumer Affairs Division, Department of Business and Industry*

Fred Washington, Compliance/Audit Investigator II, Consumer Affairs Division, Department of Business and Industry, stated he sought to appeal the addition of a specific duty which had been added to his position subsequent to his hiring. He had been hired as an investigator, and later the duties of an administrative hearing officer were added. He felt somewhat uncomfortable with that addition and felt as if it was in excess of the duties required of his position. After reviewing the class specification, Mr. Washington could find no indication of duties which required him to act as an administrative hearing officer.

Mr. Washington had unsuccessfully requested the duty as an administrative hearing officer be removed from his job requirement, which was previously performed by the Chief Investigator, grade 37. Since he continued performing this duty, he felt he should be reclassified to Chief Investigator. Additionally, he came across NRS 233B.122 which indicated anytime he had to perform an alternate function, he would be paid at the same rate of pay.

There was discussion between Chairman Manos and Jim Spencer regarding NRS 233B.122. Chairman Manos stated that if Mr. Washington wished to appeal the applicability of the statute, he could file a grievance through the Employee Management Committee.

Ken Goodly, Personnel Analyst, Department of Personnel, introduced Patricia Jarman-Manning, Commissioner, Consumer Affairs Division, and Brian Kunzi, Deputy Attorney General, Bureau of Consumer Protection.

Mr. Goodly explained that Mr. Washington performed duties such as interviewing witnesses and complainants, taking testimonials, and collecting and analyzing physical evidence. A comparative study of Mr. Washington's position determined that other Compliance/Audit Investigator II's in State service performed similar duties and responsibilities. The Chief Investigator supervises an investigatory staff on a statewide basis and participates in the planning and development of the budgetary process. Those duties were not applicable to Mr. Washington.

Based on information obtained from Mr. Washington during the desk audit, the function of administrative hearing officer was performed 1% of the time. Mr. Goodly also addressed NRS 233B.122, indicating the Department of Personnel had received an interpretation from Brian Kunzi, Deputy Attorney General, Office of the Attorney General, which stated it had no applicability to Mr. Washington.

There being no further discussion, Commissioner Enus' motion to deny the appeal was seconded by Commissioner Skaggs and unanimously carried.

**C. Fredrick Suwe, Unemployment Insurance Officer II**  
**Melinda Bydalek, Unemployment Insurance Officer I**  
*Department of Employment Training & Rehabilitation*

This item was recalled after being tabled at the September 10, 1999, Personnel Commission meeting. Melinda Bydalek was seeking to be reclassified to an Unemployment Insurance Officer II, Grade 37, and Fred Suwe requested reclassification to Unemployment Insurance Officer III, Grade 39.

Mr. Suwe, Unemployment Insurance Officer II - Quality Control Management, (BAM) introduced himself and Melinda Bydalek, retired Unemployment Insurance Officer I - Quality Control Supervisor. Ms. Bydalek was interested in the results of the reclassification request, which would be retroactive if upgraded. Also present was his immediate supervisor, Nancy Oakley, Chief of Workforce Development Support Services.

Since he last addressed the Commission on September 10, Mr. Suwe's job duties had changed with the removal of supervisory responsibility over the Benefit Payment Control (BPC) Program including supervision of the BPC Manager. However, the assignments related to the Employment Security Division's biennial budget were the original reasons why both he and Ms. Bydalek sought reclassification of their positions.



Mr. Suwe believed that preparing, coordinating, and monitoring staffing levels, equipment, travel and training for the various employment services and unemployment insurance programs were drastically out of scope for the Unemployment Insurance Officer series. This class specification defined *workload analysis* not *budget development*. Since Mr. Suwe and Ms. Bydalek were granted a 5% salary adjustment for the first 6 months of 1997 while preparing the biennial budget, they believed it would support higher reclassification of their positions.

Chairman Manos asked what percentage of time Mr. Suwe spent on the biennial budget in comparison to the rest of his duties. Mr. Suwe indicated he had estimated 50% on the NPD-19, but it was everyday, all day while they also ran the Quality Control Program. Since Ms. Bydalek's retirement, that percentage had increased.

Peter Long, Personnel Analyst, Department of Personnel, explained Mr. Suwe's request was based on a belief that the budgetary duties assigned to his position were unrelated to his current class, and Ms. Bydalek believed that her new program and budget duties were at a higher level. The Department of Personnel had been unable to accommodate their request because the new duties assigned to their positions had not changed their primary responsibilities. The current class specifications still accurately reflected the level of the majority of responsibilities assigned.

Continuing, Mr. Long said Mr. Suwe had two main functions: 50% devoted to management of the BAM program and 50% devoted to budget work. Ms. Bydalek's position had two main functions: 70% devoted to the BAM program and 30% devoted to budget work. Her new duties included interpreting Department of Labor directives, establishing case review procedures, and assisting in development of the Employment Security Division's biennial budget. Although Ms. Bydalek's program duties had expanded and were new to her, they were duties expected of an Unemployment Insurance Officer I and did not provide a basis for reclassification.

Concerning the budget duties assigned to both positions, Mr. Suwe was correct that budget responsibilities were not detailed in the class specification. However, budget preparation duties did not result in Mr. Suwe working outside the scope of his class. Class specifications were not intended to be an exhaustive catalog of every duty performed in every job, but intended to illustrate the level and scope of duties of that particular job class.

Mr. Long further explained the nature and complexity of Mr. Suwe's budget duties and compared those duties to those of a Management Analyst IV in the financial management section of Mr. Suwe's own department. In summarizing, he urged the Commission to deny both appeals.

Chairman Manos asked if Mr. Suwe had been compensated for the additional supervision up until the duties were removed. Mr. Long responded that he had been compensated up through November 9, 1999, when he was officially notified the duty was removed.

In response to additional input from the appellants regarding their budget responsibilities, Commissioner Enus asked when Mr. Suwe and Ms. Bydalek assumed control over the budget of \$30 million for the division. Mr. Suwe replied it began in 1995, and their most active involvement was in 1996 as the 1997 Legislative Session approached. Whenever the Budget Division or Legislative Counsel Bureau had questions, they were asked to answer them on behalf of their division.

Discussion continued to clarify the position of the agency and their original support of the reclassification requests. The agency supported the determination of the Department of Personnel.

There being no further discussion, Commissioner Skaggs' motion to deny the appeals was seconded by Commissioner Enus and carried with Chairman Manos voting against the motion.

**IX. UNCONTESTED CLASSIFICATION ACTION REPORT**

No action required.

**X. SELECTIVE CERTIFICATION**

No action required.

**XI. SPECIAL REPORTS**

Jeanne Greene, Director, Department of Personnel, summarized a special report on Department activities. Ms. Greene explained that during the last five years, the Department had made decisions on over 13,000 positions and only 162 had appeared before the Commission - just over 1% appealed.

Continuing, Ms. Greene explained the Governor's Fundamental Review of State Government and the role of the sub-committee reviewing the personnel system. Ms. Greene indicated she would report back to the Commission on the subcommittee's progress.

**XII. COMMENTS BY THE GENERAL PUBLIC**

There were none.

**XIII. SELECT DATE FOR NEXT MEETING**

The next meeting of the Personnel Commission was set for March 3, 2000, in Carson City.

**XIII. ADJOURNMENT**

Commissioner Skaggs's motion to adjourn the meeting was seconded by Commissioner Enus and unanimously carried. The meeting adjourned at 12:00 p.m.